

Donald Ray Brown

Plaintiff

vs.

Kathleen S. Green

Ronald Dryden

Jason Clem

Joseph Ebbitt

In the United States

District Court For  
Southern District  
of West Virginia

FILED

AUG - 7 2013

TERESA L. DEPTNER, CLERK  
U.S. District Court  
Southern District of West Virginia

Case # 2:13-21541

Comes now Donald Ray Brown PRO SE and indigent, who is being held illegally in the Eastern Correctional Centers in Firmay where he is being intentionally starved and denied many of his Constitutional Rights out of Retaliation against the Plaintiff for Filing Complaints with the Courts

### Jurisdiction & Venue

This is a Civil Action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The Courts has Jurisdiction under 28 U.S.C. 1331 and 1343 (a)(3) Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff claims for injunctive relief are authorized by 28 U.S.C. section 2283 and 2284 and Rule 65 of the

(2)

Federal Rules of Civil Procedure.

The District of Maryland is an appropriate venue under 28 U.S.C. Section 1391 (b) (2) because it is where the events giving rise to this claim occurred

### Plaintiff

Plaintiff Donald Ray Brown # 403179 is and was at all times mentioned herein a prisoner of the state of Maryland in custody of the ~~MD~~ Maryland Department of Corrections. He is currently confined in the Eastern Correctional Institutes in Falmouth. Plaintiff suffers from multiple chronic health issues and just recently underwent botched cancer surgery. He stays in constant pain, but has not been taken to see an oncologist or had a follow up cat scan as requested by the urologist who did the removal of the bladder cancer.

## Defendants

Defendant Kathleen S Green is the often investigated Warden of the Corrupt and Scandal ridden Eastern Correctional Institute. By statute she is responsible for the Health and Welfare of all inmates under her rule. She rules under the Color of State Law, and is being Sued Personally and Professionally.

Defendant Dryden is the assistant Warden at ECI the Corrupt and scandal ridden Prison on the Eastern Shore of Md. where Inmates are routinely beaten by Guards. Dryden's sole Purpose is to take Inmate Complaints and do absolutely Nothing about them. He loves to threaten Inmates with Segregation. He threatens and intimidates under the Color of state Law and he is being Sued Personally and Professionally.

Defendant Clem is the Chief Medical Officer at ECI. He is supposedly a Physician. He keeps the Plaintiff Falsley imprisoned in the infirmary. He does nothing to try to cure the Plaintiff. He acts under the Color of State Law, and is Sued personally and Professionally.

## Defendants

Defendant Ebbitt is the Risk Management Manager for Wexford Health Sources which has the Contract with the Maryland D.O.C. for the Health Care of all of Maryland's prisoners. The CEO of Wexford hides behind Ebbitt. He is Doctor ~~Stems~~ Clem's immediate supervisor. He operates under the Color of State Law or does he, since Wexford is located in Pittsburgh PA. He is being sued personally and professionally.

## Factual Allegations

1.) Plaintiff had Bladder Surgery that was Botched at Bon Secour Hospital.

2.) Plaintiff did not want to have this surgery done at Bon Secour because of the Hospital's bad reputation.

3.) Plaintiff was told by Defendant Clem to either have the surgery at Bon Secour or Die. stated by Doctor Clem.

4.) The Defendants have made no attempt to repair or fix the botched surgery.

5.) Plaintiff is being falsely imprisoned. He is being held but not treated.

6.) Plaintiff is being subjected to extreme excruciating pain in his pelvic region, penis and testicles.

7.) Defendants are purposely not giving the Plaintiff adequate pain medication in order to make him suffer out of retaliation for filing grievances.

8.) Defendants are purposely starving the Plaintiff out of retaliation for filing grievances and complaints to the courts.

9.) Defendants are feeding the Plaintiff a dangerous high starch diet out of retaliation and to cause his demise.

### Factual Allegations

10.) Defendants Do not know what is wrong with the Plaintiff, But they won't send Plaintiff to a Hospital For treatment

11.) Defendants are both Discriminating and Retaliating against the Plaintiff For Filing Grievances and Complaining to the Courts. The Plaintiff is NOT on a Special Diet, But will NOT allow him to purchase Food From the Commissary while allowing the other infirm inmates to do so.

12.) Defendants have refused to allow the Plaintiff Fresh air or outdoor Exercise For over 4 months. It is detrimental to Plaintiff's Health and is causing Muscle Atrophy.

14.) Defendants have threatened my life

15.) Defendant Clem is purposely trying to Kill and Murder the Plaintiff

16.) Defendants are Denying the Plaintiff his Buddhist Religious books. Especially Earth School 101 Which does not Advocate Violence sex or any other Forbidden or Law breaking subject. This is of course out of Retaliation

17.) Defendants Religious Books and Mail are ~~are~~ being returned to sender without any Explanation whatsoever. This is Retaliation For Filing Grievances and Complaining to the Court



### Factual Allegations

18.) Plaintiff is being Denied access to Church Services

19.) Plaintiff is being Punished when he has broken no Rules

20.) Defendants are allowing other inmates to Eat Potatoe chips, Sodas and Candy in Front of the Plaintiff while Denying same to him.

21.) Defendants are psychologically torturing the Plaintiff out of Retaliation

22.) Defendants are Physically torturing the Plaintiff out of Retaliation

23.) Defendants are Violating Every international treaty against torture and mistreatment of prisoners out of Retaliation

24.) Defendants, Guard Mary Murky and Guard Roberts are ALLOWING inmate Hitt to Have and Eat Commissary Foods while Denying the same to the Plaintiff

25.) Plaintiff has Atrial Fribulation of the Heart. The ~~Plaintiff~~ Defendants Constant Harrassment and Retaliation Causes the Plaintiffs A-Fibe to Worsen which threatens to kill the Plaintiff

## Factual Allegations

26.) Defendants Clem, Green and Sowers took a kick back to send the Plaintiff to Bon Secour Hospital where the Surgery was botched

27.) Plaintiff should be in a Hospital now instead of the infirmary. See Enclosure A.

28.) Inmates Carmichael and Wilkerson are allowed to walk the halls of the infirmary they have been in infirmary for two weeks the Plaintiff has been in the infirmary for 4 months and has been discriminated against and not allowed to walk the same Halls.

29.) Defendants have Violated the Plaintiff's rights <sup>under the</sup> ~~under the~~ ADA

30.) Plaintiff is being Denied Mental Health Care. It is well Documented that the Plaintiff is Bipolar and suffers P.T.S.D. But his medication has been stopped. Plaintiff has made Multiple written requests to see the Psychiatrist and have his meds restarted. Please see Enclosure B. But to No Avail

31.) Plaintiff's Feet, Ankles and Legs are dangerously Swollen and are not being treated. Again out of Retaliation



## Factual Allegations

32.) In a round-a-bout Admission that the Bladder Surgery was botched Defendant Clem Now wants to send the Plaintiff back to Bon Secour For a Complete bladder removal Complete with urinating in a Bag on my Side.

33.) Plaintiff does not want to go to Bon Secour Surgery again, and will not go out of Fear for his Life

34.) Plaintiff asks daily for an ~~increase~~ increase in his pain medication, But is Denied By Defendant Clem who enjoys seeing me Suffer

35.) Defendants have and are Denying the Plaintiff his psych. medications. Plaintiff is Bipolar and suffers From P.T.S.D. Which is Documented in his medical file see Enclosure B.

36.) Plaintiff has Severe Gum Disease Plaintiff ~~has~~ teeth are all Loose and rotted and need to be removed and replaced with Dentures. Plaintiff has not recieved any Dental Treatment in 5 months. Plaintiff is in serious and severe Dental Pain

## Factual Allegations

37.) Defendants and their records keeper refuse to supply the Plaintiff with copies of his medical records in violation of the Maryland Freedom of Information Act. SG §10-620 grants any person who has the right to inspect a public record and the right to be furnished copies etc. etc. See Enclosure K.

## Legal claims

Defendants willfully and wantonly and Deliberately Violated the Plaintiffs 8th Amendment Rights. in doing so they were Malicious with Evil Intent. see Factual Allegations # 1, 3, 4, 6, 7, 8, 9, 10, 12, 15, 21, 22, 24, 25, 27, 28, 30, 31, 20, 34, 35, 36

Defendants did willfully, wantonly and Deliberately Violate the Plaintiffs Due Process and Equal Protection Rights Guaranteed under the 14th Amendment. See Factual Allegation # 1, 3, 4, 5, 6, 7, 8, 9, 10, 12, 15, 19, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 20, 29, 34, 35, 36

Defendants did willfully and wantonly and Deliberately Violate the Plaintiffs 1st Amendment rights. 5, 8, 9, 16, 17, 18, 29, 7, 11, 12, 15, 18, 20, 21, 23, 25, 28, 29, 30, 31, 34, 35, 36

The Defendants are guilty of Attempted Murder among other Criminal Acts.

## Conclusion A.

IN *McCormick v. Stadler* 105 F.3d 1059, 1061 (5th Cir 1997) Citing *Estelle* at 429 U.S. At 105-106 this Court held: "unnecessary and wanton infliction of pain is repugnant to the conscience of mankind" and that it can state a claim for a constitutional tort

IN *Estelle*, the Supreme Court concluded; "Deliberate indifference to serious medical needs of prisoners constitutes the unnecessary and wanton infliction of pain proscribed by the 8th Amendment - this is true whether the indifference is manifested by a prison doctor in their response to the prisoners needs or by prison guards in intentionally denying or delaying access to care or intentionally interfering with the treatment once prescribed - Regardless of how evidenced. Deliberate indifference to a prisoners serious illness or injury states a cause of action under § 1983

Defendant clem has not and will not refer or send the plaintiff to an oncologist or other specialist. He pretends to be a specialist when in fact he is not - that

## Conclusion B

in itself violates the plaintiffs Constitutional rights.

IN *Ralston v. McGovern*, 167 F. 3d. 1160 (11th Cir 1999) The Court stated that - "Failure to treat an inmate with Cancer who is in Great Pain is deliberate indifference bordering on Abhorbarous".

How much longer will the Courts allow the Corrupt and scandal ridden Authorities at the Maryland D.O.C. to have Free rein.

How many more Inmates will they be allowed to kill under the Color of State Law. Three inmates have Died in the infirmary in the past two months due to the lack of proper Medical Care. Murder runs rampant in the Maryland D.O.C. and its health Care system.

IN *Oreg v. Georgia* 428 U.S. 153, 173, (1976) the Court stated; "today the Eighth Amendment prohibits punishments which although not physically barbarous, involve the unnecessary and wanton infliction of Pain."

The Plaintiff stays in Pain 24 hours a Day. he is Never given Enough Pain medication to Eradicate the Pain. Free Persons are not allowed to suffer like this only Prisoners are and the Defendants continue to use Pain

## Conclusion C.

as Punishment and Retaliation which is Part of their Campaign of Harassment under the Color of State Law.

Deliberate indifference abounds in this case because it is being used criminally as Retaliation. see Thaddeus-XV Blatter, 175 F.3d 378 (6th Cir 1999) also see Calhoun v. Hargrove 312 F.3d 730 (5th Cir 2002)

IN Penrod v. ZAVARAS 94 F.3d 1399, 1404 (10th Cir 1996) The Court stated ("Prison officials may not harass or retaliate against an inmate for exercising his right of Access to the Courts") See also Crawford-EL v. Britton 523 U.S. 574, 588 N.10, 118 S.Ct 1584 (1998)

Stating that, "[t]he reason why.... retaliation offends the Constitution is that it threatens to inhibit exercise of the protected right")

the Plaintiff has rights, the Supreme Court has made that clear, and in Lewis v. Casey 518 U.S. 343, 355, 116 S.Ct. 2174 (1996) and in Hudson v. Palmer 468 U.S. 517, 523, 104 S.Ct. 3194 (1984) these Courts stated: ("that Prisoners have the Constitutional right to petition Govt. for redress of their grievances, which includes a reasonable right of Access to the Courts")



## Conclusion D.

Doctor Clem is a Sadist. He Enjoys inflicting pain upon the Plaintiff which is Evidenced by his Comments and his Laughing at the Plaintiffs Complaints of pain. He Finds it amusing that the surgery on the Plaintiff was botched at Bon Secour Hospital.

Plaintiff is a Peace Loving Buddhist who believes strongly in His Religion. However the Defendants will not allow him to attend services nor will they allow His Buddhist Books in eg. "Earth School 101"

The First Amendment prohibits the Government From interfering with the free exercise of Religion.

The Courts seem to agree that the Plaintiffs beliefs do not have to be associated with a traditional or Established Religion Please see: *Africa V. Commonwealth of Pennsylvania*, 662 F.2d 1025 (3rd Cir 1981) also *Love V. Reed* 216 F.3d 682 (8th Cir 2000) The Courts have also Found that the Plaintiffs belief doesn't have to be the same as Everyone Else in His religion, see *LaFeyers V. Saffle*, 936 F.2d 1117 (10th Cir 1991).

Restricting Earth School 101 is Just.

## Conclusion E

More Harrassment in a Campaign  
OF Harrassment. There is NO penological  
interest in denying the plaintiff this Book.  
It does NOT advocate Violence or the  
breaking OF LAWS NOR is there any Nudity.

This is a clear VIOLATION OF the  
14th Amendment by Prison OFFICIALS Plus the  
Religious Land use and institutionalized  
persons act provides additional Protection  
For all Prisoners, plus it Violates the 1st Amendment

Plaintiff Continues to be denied  
Psychological Counseling and medication  
which is guranteed by the Constitution and  
Earned through two Combat Tours in Vietnam.  
in Langley V. Coughlin 888 F.2d 252, 254 (2nd  
Cir 1989) The Court stated ("we think it plain  
that from the legal standpoint psychiatric  
or mental health care is an integral part of  
medical care".) also in Wellman V. Faulkner  
715 F.2d 269, 272-73 (7th Cir 1983) The Court  
stated ("Treatment OF the Mental disorders of  
mentally disturbed inmates is a serious medical  
need")

IN Ciarpaglini V. Saini 352 F.3d 328  
330 (7th Cir 2003) Discontinuation of Bipolar  
Medication Can meet imminent Danger standard

## Conclusion F

The Defendants have lied in legal documents stating that the Plaintiff is receiving weekly dental care. The fact is that the Plaintiff has not received any dental care in 6 months. In *Farrow v. West* 320 F.3d 1235, 1244-45 (11th Cir 2003) this court held that Pain, Bleeding and Swollen Gums and Needing Dentures showed a serious Medical Need. also in *Ramos v. Lamm* 639 F.2d 559, 576 (10th Cir 1980) the Court stated that, ("Prisoners generally have more Extensive dental problems than the Average citizen. Consequently dental care is one of the most important medical needs of inmates") yet still in *Fields v. Gander*, 734 F.2d 1313, 1314 - 15 (8th Cir 1984) the Court held that the inmate had severe pain "Due to infected teeth, Dental Care Delayed for three weeks could support a finding of an Eighth Amendment Violation, see also *Chance v. Armstrong* 143 F.3d 698, 703 (2nd Cir 1998) and *Wynn v. Southward*, 251 F.3d 588, 593 (7th Cir 2001) the Court stated that ("Denial of Dentures, resulting in Eating difficulty, Bleeding, Headaches and disfigurement was a serious Medical Need.

## CONCLUSION G

IN *Boyd v. KNOX* 47 F.3d 966, 969

(8th Cir 1995) The Court Found: ("officials failed to send referral for dental care for 3 weeks after observing inmates swollen, infected, and painful mouth; a three week delay in dental care, coupled with knowledge of inmate - patient suffering can support a finding of an Eighth Amendment violation")

The Plaintiff in the Current Case

Donald Ray Brown has been waiting for six months to be treated. He was first seen in May 2012 at Brockbridge Correctional Center where he was told that all the teeth needed to be removed and replaced with dentures. The Plaintiff has been waiting 14 months to have his rotted, loose and painful teeth removed. He has not been given any pain medication for his teeth in 14 months. This can only be viewed as deliberate indifference. and finally in *Patterson v. Peterson* 19 F.3d 439, 440 (8th Cir 1994) (Held that a one month delay in treatment of an infected tooth and swollen jaw could be a violation of prisoners civil rights) Again, Plaintiff Brown has been waiting in pain for 14 months.

## Conclusion II

The Plaintiff Could go on and on about his Rights being Violated. What is stated herein is both truthful and Factual the Defendants actions are Willful, Wanton and Deliberate. There intent was and is OF Evil Nature and Sadistic.

IN WOLF V. McDONNELL, 418 U.S. 539, 558, 94 S. CT 2963 (1974) The Court Stated that ("the touchstone OF due Process is <sup>protection</sup> ~~protection~~ OF the individual against arbitrary Action OF the Govt.")

The Supreme Court has stated that, "Prison Walls, do NOT Form a barrier Separating Prison inmates From The Protection OF The Constitution" why then are the Defendants allowed to mistreat and stomp all over the Rights of the Plaintiff who is a Veteran OF the Vietnam conflict ??

IN closing, The Plaintiff states that Dogs in the Pound are given Fresh air and Exercise. Is this the appreciation that the U.S. Shows it's Vets? That Dogs are more Valuable or worth more than a <sup>man</sup> ~~dog~~ ?? because the Plaintiff has Not been allowed out For Fresh air or Exercise in Four months. So in Essence if this is Allowed to stand and Continue.



### Conclusion H Continued

the Plaintiff is of less value or importance than a Dog. Shame on the United States of America for allowing this to happen or to continue.

Either this Court and the Govt. are going to live and abide by the Constitution or we are not. ~~Is~~ it all just a Big Lie? or is there any true Justice left in the shell of a Country I once knew.

Dodd R. B. 403179.

### Verification

Pursuant to 28 U.S.C. § 1746, I declare and verify under penalty of perjury under the Laws of the United States of America that the foregoing is true and correct Executed on July 16, 2013

Dodd R. B. 403179



## Prayer For Relief

Wherefore, Plaintiffs respectfully pray that this Court enter Judgment:

A.) Granting Plaintiff a declaration that the acts and omissions described herein violate His rights under the Constitution and Laws of the United States and:

B.) A Preliminary and Permanent Injunction ordering Defendants to cease their Harassment, Retaliation and Lack of Pain Medication and:

C.) order Defendants to treat Plaintiffs Edema and to Remove Plaintiffs Cancer ravaged Bladder at Mery, U. of Maryland or John Hopkins But Not at Bon Secour Hospital and:

D.) Grant Plaintiff Compensatory damages in the amount of 1.5 million Dollars and.

E.) Grant the Plaintiff Punitive Damages in the amount of 1.5 million Dollars and:

Prayer For Relief Continued

F.) order a Jury trial on all issues triable by Jury and:

G.) Grant any additional relief that this Court deems Just, Proper, and equitable.

Dated July 17, 2013

Donald R. Brown

Respectfully Submitted

Donald Ray Brown 403179

ECI-E

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